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No. 606

In the Supreme Court of the United States

OCTOBER TERM, 1930

UNITED STATES OF AMERICA, APPELLANT

v.

WILLIAM H. SPRAGUE AND WILLIAM J. HOWEY

ON APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW JERSEY

STATEMENT OF JURISDICTION

In the Supreme Court of the United States

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No. —

UNITED STATES OF AMERICA, APPELLANT

v.

WILLIAM H. SPRAGUE AND WILLIAM J. HOWEY

ON APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW JERSEY

STATEMENT OF JURISDICTION

In compliance with Rule 12 of this Court, appellant submits herewith its statement showing the basis for this Court's jurisdiction in the above-entitled cause:

A

STATUTES

The statutory jurisdiction of this Court to review by direct appeal the judgment here complained of is conferred by the Act of March 2, 1907, c. 2564, 34 Stat. 1246 (U. S. C., Title 18, Sec. 682), otherwise known as the Criminal Appeals Act, and by Section 238 of the Judicial Code, as amended by the Act of February 13, 1925.

B

DATES OF JUDGMENT AND APPLICATION FOR APPEAL

The judgment of the District Court was entered December 18, 1930. (R. 53.)[1] The application for appeal was made and the appeal was allowed the same day. (R. 54.) The case was docketed in this Court on December 20, 1930.

C

NATURE OF THE CASE

The indictment charged that the defendants had unlawfully transported certain quantities of intoxicating liquors containing one-half of one per cent or more of alcohol by volume and being fit for use for beverage purposes and with unlawfully possessing the same in violation of the National Prohibition Act. (R. 2–3.) A motion to quash the indictment was sustained on the ground that the National Prohibition Act is void because the Eighteenth Amendment to the Constitution, pursuant to which it was enacted, is void for the reason, assigned by the court, that that amendment was ratified by legislatures of the States, whereas under the Constitution it could be ratified only by conventions called for that purpose in the States.

[1] All references to the record are to the pages of the certified unprinted record prepared by the Clerk of the District Court and on file with the Clerk of this Court. The record has not yet been printed.

D

CASES SUSTAINING JURISDICTION

United States v. *Stevenson*, 215 U. S. 190, 195–196.

United States v. *Patton*, 226 U. S. 525.

United States v. *Birdsall*, 233 U. S. 223.

United States v. *Yuginovich*, 256 U. S. 450, 461.

Respectfully submitted.

THOMAS D. THACHER,
Solicitor General.

G. A. YOUNGQUIST,
Assistant Attorney General.

JOHN J. BYRNE, *Attorney.*

DECEMBER, 1930.

U. S. GOVERNMENT PRINTING OFFICE: 1930